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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

Jenny Lisette Flores, *et al*

Plaintiffs,

v.

William Barr, Attorney General of the  
United States, *et al*

Defendants.

Case No. CV 85-4544-DMG (AGRx)

**APPLICATION FOR LEAVE TO  
FILE UNDER SEAL PORTIONS  
OF EXHIBITS SUBMITTED IN  
SUPPORT OF PLAINTIFFS' EX  
PARTE APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER AND ORDER TO SHOW  
CAUSE WHY A PRELIMINARY  
INJUNCTION AND CONTEMPT  
ORDER SHOULD NOT ISSUE  
AND MEMORANDUM IN  
SUPPORT**

Hearing: None set

Dated: June 26, 2019

APPLICATION FOR LEAVE TO FILE UNDER SEAL  
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1                   **APPLICATION FOR LEAVE TO FILE UNDER SEAL PORTIONS OF**  
2                   **EXHIBITS SUBMITTED IN SUPPORT OF PLAINTIFFS' EX PARTE**  
3                   **APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER**  
4                   **TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION AND**  
5                   **CONTEMPT ORDER SHOULD NOT ISSUE AND MEMORANDUM IN**  
6                   **SUPPORT**

7                   Plaintiffs submit this unopposed Application seeking leave from the Court to  
8 file under seal portions of Exhibits 1-19, 23, 25-62, and 64-67 (“Exhibits”) in  
9 Support of Plaintiffs’ Ex Parte Application for Relief, pursuant to Federal Rule of  
10 Civil Procedure 5.2(d) and Local Rule 79-5. *See* Echtman Seal Decl. ¶ 2 (table  
11 specifying information Plaintiffs seek to seal for each Exhibit). As required by  
12 Local Rule 79-5.2.2(a), Plaintiffs submit concurrently with this application the  
13 declaration of Elyse D. Echtman, a proposed order, and redacted and unredacted  
14 versions of the Exhibits.

15                   The portions of the Exhibits that Plaintiffs seek to seal include:

16                   • the full names of Class Members and/or their family members and  
17                   sponsors,  
18                   • their alien registration numbers or case numbers,  
19                   • their health care information; and/or  
20                   • their full birth dates.

21                   *See* Echtman Seal Decl. ¶ 2 (table specifying information Plaintiffs seek to  
22 seal for each Exhibit).

23                   These Class Members are or recently were minors in the immigration  
24 detention custody of the Office of Refugee Resettlement (ORR). These youth have  
25 an interest in maintaining their privacy while in immigration custody and in their

1 private medical and mental health information.

2 **LEGAL STANDARD**

3 Because the public generally has a “right to inspect and copy public records  
4 and documents, including judicial records and documents,” there is “a strong  
5 presumption in favor of access to court records.” *Ctr. for Auto Safety v. Chrysler*  
6 *Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016) (internal quotation marks and  
7 citations omitted). Accordingly, “a court may seal records only when it finds a  
8 compelling reason and articulate[s] the factual basis for its ruling, without relying  
9 on hypothesis or conjecture.” *Id.* at 1096-97. Under this standard, the “party  
10 seeking to seal a judicial record then bears the burden of . . . articulat[ing]  
11 compelling reasons supported by specific factual findings . . . that outweigh the  
12 general history of access and the public policies favoring disclosure, such as the  
13 public interest in understanding the judicial process.” *Kamakana v. City & Cnty. of*  
14 *Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal quotation marks and  
15 citations omitted). The court must “conscientiously balance[] the competing  
16 interests of the public and the party who seeks to keep certain judicial records  
17 secret.” *Id.* at 1179 (internal quotation marks and citations omitted).

18 **ARGUMENT**

19 There are compelling reasons to seal the portions of the documents that  
20 Plaintiffs seek to protect from public disclosure. These documents and the related  
21 Motion contain highly personal information regarding the individual Class  
22 Members, and disclosure of this information would cause them significant harm.

23  
24 **I. Compelling Reasons Support the Sealing of the Identifying Information  
25 of the Individual Class Members and Their Family Members and  
Sponsors.**

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2 Plaintiffs' Ex Parte Application as well as the supporting Memorandum and  
3 Exhibits implicate several highly private interests for the individual Class Members  
4 who are identified in those documents, and thus protection of their identities and  
5 those of their family members and sponsors is warranted.

6 First, the Ex Parte Application, Memorandum, and Exhibits address a  
7 number of very sensitive and personal matters, including the past abuse, trauma,  
8 and private mental and physical health information and treatment of Class  
9 Members. Courts have recognized a constitutionally protected interest in avoiding  
10 disclosure of such personal matters, including medical information. *Doe v. Beard*,  
11 63 F. Supp. 3d 1159, 1166 n.4 (C.D. Cal. 2014) (collecting cases); *see also Globe*  
12 *Newspaper Co. v. Superior Court*, 457 U.S. 596, 607 (1982) (finding that  
13 "safeguarding the physical and psychological well-being of a minor" is a  
14 compelling interest); *Eugene S. v. Horizon Blue Cross Blue Shield of N.J.*, 663 F.3d  
15 1124, 1136 (10th Cir. 2011) (granting Plaintiff-Appellant's motion to file volume  
16 of appendix under seal because "nearly every document in the volume at issue  
17 includes the name of, and/or personal and private medical information relating to,  
18 [Plaintiff-Appellant's] minor son."); *Webster Groves Sch. Dist. v. Pulitzer Pub.*  
19 *Co.*, 898 F.2d 1371, 1376-77 (8th Cir. 1990) (affirming decision to seal court  
20 records containing "testimony of psychologists and psychiatrists as to [child's]  
21 mental status" to prevent child from being "stigmatized and humiliated . . .");  
22 Order granting Motion to File Declarations Under Seal at 1, *Doe v. Shenandoah*  
23 *Valley Juvenile Center Commission*, No. 5:17-cv-0097 (W.D. Va. Feb 26, 2018),  
24 ECF No. 43 (granting motion to file declarations of immigrant youth under seal  
25 because Plaintiffs established that the "information contained in such declarations,

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1 including details regarding the declarants' mental health, past abuse, and trauma, is  
2 of a highly sensitive and personal nature . . ."). Disclosing the Class Members'  
3 names in conjunction with this information would subject them to potential stigma  
4 and humiliation. *See Vitek v. Jones*, 445 U.S. 480, 492 (1980) (noting that  
5 compelled psychiatric treatment "can engender adverse social consequences to the  
6 individual" that can "have a very significant impact on the individual.") (citation  
7 omitted).

8 Second, the Exhibits implicate the details of the Class Members' immigration  
9 detention and case numbers. Federal law and policy maintain personally  
10 identifying information related to such matters as confidential, particularly for  
11 minors in the custody of the U.S. Customs and Border Patrol and/or Office of  
12 Refugee Resettlement. *See, e.g.*, 8 C.F.R. § 236.6 (prohibiting release of "the name  
13 of, or other information relating, to" immigration detainees); 8 C.F.R. § 208.6  
14 (maintaining confidentiality of asylum applications and related records). The U.S.  
15 Department of Health and Human Services maintains self-described "strong  
16 policies . . . to ensure the privacy and safety of unaccompanied alien children by  
17 maintaining the confidentiality of their personal information." U.S. Dept. of Health  
18 & Human Services, Unaccompanied Alien Children Released to Sponsors by State  
19 (June 30, 2017), <https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state> (last accessed June 25, 2019). It explains,  
20 "These children may have histories of abuse," "may be seeking safety from threats  
21 of violence," or "may have been trafficked or smuggled." *Id.* Accordingly, the  
22 agency has recognized that it "cannot release information about individual children  
23 that could compromise the child's location or identity." *Id.*

24 Further, the Class Members' identifying information should also be protected

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1 because the sensitive subject matter at issue – including their private mental health  
2 and trauma information and immigration detention – is based exclusively on their  
3 experiences as minors. Federal courts recognize the importance of protecting  
4 minors’ identities and personal information in court proceedings. *Doe v.*  
5 *Kamehameha Schs./Bernice Pauahi Bishop Estate*, 625 F.3d 1182, 1187 (9th Cir.  
6 2010) (Reinhardt, J., dissenting from denial of reh’g en banc) (“The interest of  
7 minors in privacy is greater than the public’s interest in learning their names, even  
8 when there is no particular threat to the juvenile’s physical safety or wellbeing.”).  
9 Courts consider the age of a party to be a “significant factor in the matrix of  
10 considerations arguing for anonymity” based on a recognition of the “special  
11 vulnerability” of minors. *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981); *see also*  
12 *Sealed Plaintiff v. Sealed Defendant #1*, 537 F.3d 185, 190 (2d Cir. 2008) (stating  
13 that an important factor in the balancing inquiry is “whether the plaintiff is  
14 particularly vulnerable to the possible harms of disclosure, particularly in light of  
15 his age”) (internal citations omitted).

16 Finally, many of the Class Members address in their declarations negative  
17 experiences that they have experienced in the care of the government contractors  
18 who are acting as their physical custodians. Many of them remain in the custody of  
19 these contractors, and public disclosure of their names could put them at risk of  
20 retaliation. Thus, sealing the Class Members’ full names is necessary to protect  
21 their highly personal information as well as to protect them from the risk of  
22 negative reprisals from their custodians or former custodians.

23 To protect the Class Members’ identities effectively, it is also necessary to  
24 protect the names and identifying information, such as the telephone numbers and  
25 home addresses, of their family members and potential sponsors. Identification of

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1 those individuals could lead easily to the identification of the Class Members.  
2 Further, some of the Exhibits implicate personal information of the Class Members'  
3 family members and potential sponsors, including their immigration status and  
4 histories of trauma.

5 **II. Sealing of Full Birthdates also is Warranted.**

6 A number of the Exhibits also include the full birthdates of the Class  
7 Members and other individuals. Federal Rule of Civil Procedure 5.2(a) restricts  
8 parties from public filing of birthdates, other than the year of birth. Accordingly,  
9 Plaintiffs seek to seal the month and day of individuals' birthdates.

10 **III. Plaintiffs' Sealing Request is Narrowly Tailored.**

11 Plaintiffs seek only a limited sealing order that permits them to file  
12 unredacted versions of the Exhibits under seal and redacted versions of the Exhibits  
13 in the public record. Other relevant information important to Plaintiffs'  
14 presentation of the issues, including the content of the Class Members' statements  
15 and other documents, would still be maintained in the public record, and the  
16 Court's resolution of these matters will be public as well. Plaintiffs do not seek to  
17 seal the entirety of the Class' members' declarations and related Exhibits, but rather  
18 specific portions necessary to protect the highly confidential and personal  
19 information of the individual Class Members. Accordingly, filing portions of the  
20 Exhibits under seal is the least restrictive method of ensuring Plaintiffs' and their  
21 family members' privacy while permitting the public access to the maximum  
22 amount of information.

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## **CONCLUSION**

For the reasons set forth above, Plaintiffs respectfully request leave to file under seal the complete, unredacted versions of the Exhibits and to file redacted versions of the Exhibits in the public record.

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1 Dated: June 26, 2019

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